

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES  
(Attorney Docket № 14762US02)**

In the Application of:

Jeyhan Karaoguz, et al.

Serial No. 10/675,458

Filed: September 30, 2003

For: HEADEND PRE-PROCESSING  
MEDIA GUIDE SUPPORT FOR  
PERSONAL MEDIA EXCHANGE  
NETWORK

Examiner: Kunal N. Langhnoja

Group Art Unit: 2427

Confirmation No. 5610

**Electronically filed on 22-JAN-2009**

**APPEAL BRIEF**

Mail Stop Appeal Brief – Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is an appeal from an Office Action dated July 22, 2008 ("Final Office Action"), in which claims 1-38 were finally rejected. The Appellant respectfully requests that the Board of Patent Appeals and Interferences ("Board") reverses the final rejection of claims 1-38 of the present application. The Appellant notes that this Appeal Brief is timely filed within the period for reply that ends on January 22, 2009.

**REAL PARTY IN INTEREST**  
**(37 C.F.R. § 41.37(c)(1)(i))**

Broadcom Corporation, a corporation organized under the laws of the state of California, and having a place of business at 5300 California Avenue, Irvine, California 92617, has acquired the entire right, title and interest in and to the invention, the application, and any and all patents to be obtained therefor, as set forth in the Assignment recorded at Reel 014244, Frame 0406 in the PTO Assignment Search room.

**RELATED APPEALS AND INTERFERENCES**  
**(37 C.F.R. § 41.37(c)(1)(ii))**

The Appellant is unaware of any related appeals or interferences.

**STATUS OF THE CLAIMS**  
**(37 C.F.R. § 41.37(c)(1)(iii))**

Claims 1-38 were finally rejected. Pending claims 1-38 are the subject of this appeal.

The present application includes claims 1-38, which are pending in the present application. Claims 1-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0104099 ("Novak") in view of U.S. Patent № 6,774,926 ("Ellis"). See Final Office Action at page 2. The

Appellant identifies claims 1-38 as the claims that are being appealed. The text of the pending claims is provided in the Claims Appendix.

**STATUS OF AMENDMENTS  
(37 C.F.R. § 41.37(c)(1)(iv))**

The Appellant has not amended any claims subsequent to the final rejection of claims 1-38 mailed on July 22, 2008.

**SUMMARY OF CLAIMED SUBJECT MATTER  
(37 C.F.R. § 41.37(c)(1)(v))**

The invention of claim 1 is illustratively described in the Specification of the present application in, for example, "Brief Summary of the Invention" section in pages 4-6, the detailed description of the invention in pages 9-19 (paragraphs 31-63), and in Figures 1-2. A method for processing media for selection and playback in a communication network may include determining when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location (e.g., home 102 in FIG.1). See present specification at page 4, lines 2-6. The scheduling may be performed at the first geographic location (e.g., home 102 in FIG.1). See *id.* at paragraph 50; line 26, p. 15 – line 2, p. 16. Information related to the scheduled one or both of the personal media and/or the broadcast media may be acquired from at least one media provider (e.g., from the

broadcast channel provider 117 and/or the 3<sup>rd</sup> party media provider 113 in FIG. 1). *See id.* at p. 16, lines 14-25. The at least one constructed display may be updated, at a second geographic location (e.g., location of the headend infrastructure 105), based on the acquired information. *See id.* at p. 16, lines 14-25.

Claims 2-10 are dependent upon claim 1.

The invention of claim 11 is illustratively described in the Specification of the present application in, for example, "Brief Summary of the Invention" section in pages 4-6, the detailed description of the invention in pages 9-19 (paragraphs 31-63), and in Figures 1-2. Another embodiment of the invention may provide a machine-readable storage, having stored thereon, a computer program having at least one code section for processing media for selection and playback in a communication network. *See id.* at p. 4, lines 22-24. The at least one code section may be executable by a machine, thereby causing the machine to perform the steps as described above for processing media for selection and playback in a communication network. *See id.* at p. 4, lines 24-27.

Claims 12-20 are dependent upon claim 11.

The invention of claim 21 is illustratively described in the Specification of the present application in, for example, "Brief Summary of the Invention" section in pages 4-6, the detailed description of the invention in pages 9-19 (paragraphs 31-63), and in Figures 1-2. A system for processing media for selection and playback in a communication network may include at least one processor that determines when one

or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location (e.g., home 102 in FIG.1). See present specification at page 4, lines 2-6. The scheduling may be performed at the first geographic location (e.g., home 102 in FIG.1). See *id.* at paragraph 50; line 26, p. 15 – line 2, p. 16. The at least one processor may acquire information related to the scheduled one or both of the personal media and/or the broadcast media from at least one media provider (e.g., from the broadcast channel provider 117 and/or the 3rd party media provider 113 in FIG. 1). See *id.* at p. 16, lines 14-25. The at least one processor may update, at a second geographic location (e.g., location of the headend infrastructure 105), the at least one constructed display based on the acquired information. See *id.* at p. 16, lines 14-25.

Claims 22-31 are dependent upon claim 21.

The invention of claim 32 is illustratively described in the Specification of the present application in, for example, “Brief Summary of the Invention” section in pages 4-6, the detailed description of the invention in pages 9-19 (paragraphs 31-63), and in Figures 1-2. A method for processing media for selection and playback in a communication network may include determining, from outside a home (e.g., home 102 in FIG.1), when one or both of personal media and/or broadcast media is scheduled in at least one constructed display that is displayed within the home (e.g., home 102 in FIG.1). See present specification at page 4, lines 2-6. The scheduling may be performed at the home (e.g., home 102 in FIG.1). See *id.* at paragraph 50; line 26, p.

15 – line 2, p. 16. Information related to the scheduled one or both of the personal media and/or the broadcast media may be acquired from at least one media provider (e.g., from the broadcast channel provider 117 and/or the 3rd party media provider 113 in FIG. 1). *See id.* at p. 16, lines 14-25. The at least one constructed display may be updated from outside of the home (e.g., from location of the headend infrastructure 105), based on the acquired information. *See id.* at p. 16, lines 14-25.

Claims 33-38 are dependent upon claim 32.

**GROUND S OF REJECTION TO BE REVIEWED ON APPEAL  
(37 C.F.R. § 41.37(c)(1)(vi))**

Claims 1-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0104099 ("Novak") in view of U.S. Patent № 6,774,926 ("Ellis").

**ARGUMENT**  
**(37 C.F.R. § 41.37(c)(1)(vii))**

In the Final Office Action, claims 1-38 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0104099 ("Novak") in view of U.S. Patent № 6,774,926 ("Ellis"). The combination of Novak and Ellis, however, does not describe, teach or suggest every recited limitation within these claims. The burden of establishing a *prima facie* case of obviousness resides with the Patent and Trademark Office. See *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785, 788 (Fed. Cir. 1984) quoting *In re Warner*, 379 F.2d 1011, 1016, 154 USPQ 173, 177 (CCPA 1967). The Final Office Action fails to establish a *prima facie* case of obviousness because it does not specifically point to every limitation of the rejected claims of the present application in Novak and Ellis.

**I. The Proposed Combination of Novak and Ellis Does Not Render Claims 1-38 Unpatentable**

**A. Claims 1, 11, 21, 31, and 32**

With regard to the rejection of independent claim 1 under 103(a), the Appellant submits that the combination of Novak-Ellis does not disclose or suggest at least the limitation of "determining when one or both of personal media and/or broadcast media is scheduled in at least one **constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location,**"

as recited by the Appellant in independent claim 1 (emphasis added). The Final Office Action states the following:

With respect to Claim 1, the claimed "determining when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location" is met in part by Novak that teaches the determination of scheduled broadcast media by using an electronic program guide, EPG 153, which is constructed/produced by a local studio 106 or a cable service provider 108 and where personal media can be scheduled by a individual acting as a program director, upload source 122 (Fig. 1; paragraph [0038]).

See Final Office Action at pages 2-3. The Examiner has equated Appellant's "constructed display" to Novak's electronic program guide 153. Referring to FIG. 1 of Novak, the electronic program guide (EPG) 153 is produced/generated by the local studio 106, the cable service provider 108, or another party. The EPG is then stored at the set-top-box (STB) 152 at the cable subscriber's location. See Novak at ¶ 0037. If we assume that the "first geographic location" is where the EPG is scheduled/generated (i.e., the local studio 106 or the cable service provider 108), the Appellant points out that **Novak's EPG is for presentation at the cable subscriber's location and not at the location where the EPG was scheduled/generated, i.e., EPG is not for presentation at the "first geographic location."** Furthermore, the "first geographic location" cannot be the cable subscriber's location since, as explained in Novak's ¶ 0037, **the EPG is generated outside of the subscriber's location and then it is provided to the subscriber** and stored at the STB 152 for subsequent display. In other words, **Novak does not disclose that the EPG is scheduled at a given**



**location for presentation at the same location.** In fact, based on the principle of operation disclosed by Novak (EPG is generated outside of the subscriber's location and then communicated to the subscriber location for display, and the media studio/cable provider is distinct and separate from the cable subscriber), the Appellant submit that it is not possible under Novak for the EPG guide to be generated at a given location for presentation **at the same** location. Therefore, combining Novak with any other reference (that teaches the EPG is scheduled at a given location for presentation at the same location) would render Novak inoperable and would not overcome the above deficiencies of Novak, and the rejection of claims 1-38 should be withdrawn at least for the above reasons.

The Examiner conceded that Novak does not explicitly teach that the EPG is scheduled at a given location for presentation at the same location, and then relied for support in Ellis by stating the following:

However, in the same field of endeavor, Ellis et al. teach a personal television channel system in which contributors such as individuals in the home may create personal television channel programming and may set up scheduling for the personal television channel programming- whereby the contributor and the viewers may use the same user equipment thus enabling a contributor to receive scheduling information of personal and/or traditional television channels (Abstract; Fig. 1; col.1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col.11, lines 45-51; col.14, lines 23-32).

See the Final Office Action at page 3. Initially, as already explained above, the Appellant points out that **combining Novak with any other reference, including Ellis, would not overcome the deficiencies of Novak since it is not possible under**

**Novak for the EPG guide to be generated at a given location for presentation at the same location. A combination of Novak and any reference that teaches the EPG is scheduled at a given location for presentation at the same location would render Novak inoperable.**

Assuming for the sake of argument that Novak can be properly combined with Ellis, the Examiner's argument is still deficient since Ellis does not even teach or suggest that the EPG is scheduled at a given location for presentation at the same location. In fact, Ellis is very similar to Novak with regard to how the EPG is generated and handled. More specifically, Ellis discloses a system for distributing personal television channel programs and program schedule information (EPG) from contributors to viewers. The program schedule information (e.g., the EPG) is first communicated to a data storage facility (52 in FIG. 1) for storage in the program schedule database (54 in FIG. 1). See Ellis at col. 1, lines 25-45. From the program schedule database, the EPG information is communicated to television distribution facilities (32 in FIG. 1). Only then is the EPG distributed to the individual viewers at the user equipment 34. See *id.* at col. 4, lines 42-58. In this regard, **Ellis, similarly to Novak, does not disclose that the EPG is scheduled at a given location for presentation at the same location.**

Therefore, the Appellant maintains that the combination of Novak-Ellis does not disclose or suggest at least the limitation of "determining when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for

presentation at a first geographic location, wherein said scheduling is performed at said first geographic location," as recited by the Appellant in independent claim 1.

Furthermore with regard to the rejection of independent claim 1 under 103(a), the Appellant submits that the combination of Novak-Ellis does not disclose or suggest at least the limitation of "acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider," as recited by the Appellant in independent claim 1. The Final Office Action states the following:

The claimed "acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider;" is met by Novak that teaches the acquisition of personal media information from an upload source (122,222) pertaining to the scheduling or sequencing of personal media (Figs. 1,2, 6, & 7; paragraphs [0010], [0039], [0056], [0062], & [0063]). See Final Office Action at pages 2-3.

See the Final Office Action at page 4. The Appellant respectfully disagrees. In the above citations, Novak simply discloses that personal media information can be uploaded by the upload source 122. In other words, the upload source 122 is only a source of personal media information. Obviously, "information related to said scheduled one or both of said personal media and/or said broadcast media" is separate from the personal media or the broadcast media. Therefore, since Novak does not disclose that the upload source communicates anything else other than the personal media, there can be no acquisition from the upload source 122 of "information related to said

scheduled one or both of said personal media and/or said broadcast media from at least one media provider,” as recited in claim 1.

Furthermore with regard to the rejection of independent claim 1 under 103(a), the Appellant submits that the combination of Novak-Ellis does not disclose or suggest at least the limitation of “updating, at a second geographic location, said at least one constructed display based on said acquired information,” as recited by the Appellant in independent claim 1. The Final Office Action states the following:

The claimed "and updating, at a second geographic location, said at least one constructed display based on said acquired information" is met by Novak that teaches the updating of an EPG (153) upon acquiring information relevant to the scheduling of the personal media content uploaded by an upload source (122,222) to a local studio (106) or a cable service provider (108) and its subsequent transmittal to a 2nd geographic location, i.e. a user using set top box 152 (Figs. 1&2; paragraphs [0010], [0041], & [0079]).

See the Final Office Action at page 4. The Appellant respectfully disagrees. The Examiner has equated the “second geographic location” to the location of the user and STB 152. As already explained above, the EPG 153 is generated outside of the subscriber’s location (equated by the Examiner to the “second geographic location”), and then it is provided to the subscriber and stored at the STB 152 for subsequent display. In other words, there is no updating, at the subscriber’s location (or the “second geographic location”), of at least one constructed display based on the information acquired from the media provider.

Accordingly, the combination of Novak-Ellis does not render independent claim 1 unpatentable, and claim 1 is allowable. Independent claims 11, 21, and 32 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Appellant submits that independent claims 11, 21, and 32 are also allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

Furthermore, claim 31 depends on independent claim 21. Therefore, the Appellant submits that claim 31 is allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2, 12, 22, and 33**

Claims 2, 12, 22, and 33 depend on independent claims 1, 11, 21, and 32, respectively. Therefore, the Appellant submits that claims 2, 12, 22, and 33 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that the combination of Novak-Ellis does not disclose or suggest at least the limitation of "transferring to said first geographic location said updated at least one constructed display for presentation at said first geographic location," as recited by the Appellant in claim 2.

With regard to claim 2, the Final Office Action states the following at page 4:

With respect to Claim 2, the claimed "comprising transferring to said first geographic location said updated at least one constructed display for presentation at said first geographic location" is met by Ellis et al. that

teach a personal television channel system in which contributors such as individuals in the home may create personal television channel programming and may set up scheduling for the personal television channel programming- whereby the contributor and the viewers may use the same user equipment thus enabling a contributor to receive scheduling information of personal and/or traditional television channels (Abstract; Fig. 1; col. 1, lines 46-51; col.2, line 65 to col.3, line 6; col.3, lines 18-28; col.4, lines 59-61; col.5, lines 15-22; col. 11, lines 45-51; col. 14, lines 23-32).

The Appellant would like to point out that even though Ellis discloses, at the above citations, that contributors may create personal television channel programming, as already explained above, such personal television channel programming is for the sole purpose of being communicated to users. Also, Ellis discloses that contributors and users are separate with distinct functionalities. Ellis, similarly to Novak, does not disclose that the EPG is scheduled at a given location for presentation at the same location. Therefore, there is no transferring of updated constructed display back to a geographic location where such constructed display was originally scheduled, as recited by the Appellant in claims 2, 12, 22, and 33. Accordingly, the Appellant submits that claims 2, 12, 22, and 33 are allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2, 12, 22, and 33.

**C. Rejection of Dependent Claims 3, 13, 23, and 34**

Claims 3, 13, 23, and 34 depend on independent claims 1, 11, 21, and 32, respectively. Therefore, the Appellant submits that claims 3, 13, 23, and 34 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 3, 13, 23, and 34.

**D. Rejection of Dependent Claims 4, 14, 24, and 35**

Claims 4, 14, 24, and 35 depend on independent claims 1, 11, 21, and 32, respectively. Therefore, the Appellant submits that claims 4, 14, 24, and 35 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that Novak-Ellis does not disclose or suggest at least the limitation of "storing media broadcast content corresponding to said accessed subscription information," as recited by the Appellant in claims 4, 14, 24, and 35.

With regard to claim 4, the Final Office Action states the following at page 5:

With respect to Claim 4, the claimed "comprising storing media broadcast content corresponding to said accessed subscription information" is met by Novak that teaches the storage to a server of uploaded media objects to be provided to a client terminal (Figs. 1, 2, 4, & 5; paragraphs [0010], [0039], [0043], [0055], [0056], [0061]).

The Appellant would like to point out that even though Novak discloses, at the above citations, that uploaded media may be stored to a server, Novak clearly does not disclose or suggest any storing of **media broadcast content that corresponds to the accessed subscription information**, as recited by the Appellant in claims 4, 14, 24, and 35. **Furthermore, Novak only discloses that personal media (not broadcast media) is being uploaded to a server.** Accordingly, the Appellant submits that claims 4, 14, 24, and 35 are allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 4, 14, 24, and 35.

#### **E. Rejection of Dependent Claims 5, 15, 25, and 36**

Claims 5, 15, 25, and 36 depend on independent claims 1, 11, 21, and 32, respectively. Therefore, the Appellant submits that claims 5, 15, 25, and 36 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that Novak-Ellis does not disclose or suggest at least the limitation of “communicating said stored media broadcast content to a location where said updated at least one constructed display is presented,” as recited by the Appellant in claims 5, 15, 25, and 36.

With regard to claim 5, the Final Office Action states the following at page 5:



With respect to Claim 5, the claimed "comprising communicating said stored media broadcast content to a location where said updated at least one constructed display is presented" is met by Novak that teaches the transmittal of stored uploaded media objects to a client terminal via a synthetic channel, which is included in an updated EPG 153 (Fig. 1, 2, 4, & 11; paragraphs [0010], [0060], [0069], [0085], [0087]).

The Appellant respectfully disagrees and points out that Novak only discloses that personal media (not broadcast media) is being uploaded to a server. In addition, Novak clearly does not disclose or suggest any storing of media broadcast content that corresponds to the accessed subscription information, as well as communicating of the stored media broadcast content to a location where the updated at least one constructed display is presented, as recited by the Appellant in claims 5, 15, 25, and 36. Accordingly, the Appellant submits that claims 5, 15, 25, and 36 are allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 5, 15, 25, and 36.

#### **F. Rejection of Dependent Claims 6, 16, and 26**

Claims 6, 16, and 26 depend on independent claims 1, 11, and 21, respectively. Therefore, the Appellant submits that claims 6, 16, and 26 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that Novak-Ellis does not disclose or suggest at least the limitation of "combining representations of updated broadcast

media and/or said personal media in said at least one constructed display based on said acquired information," as recited by the Appellant in claims 6, 16, and 26.

With regard to claim 6, the Final Office Action states the following at page 5:

With respect to Claim 6, the claimed "comprising combining representations of updated broadcast media and/or said personal media in said at least one constructed display based on said acquired information" is met by Novak that teaches the use of an EPG (153,802) in presenting to a client listings for both personal and broadcast media available (Figs. 8 & 9; paragraphs [0026], & [0070]-[0074]).

The Appellant respectfully disagrees and points out that Novak does not disclose any updating of broadcast media and/or personal media based on information acquired from a media provider (as explained with regard to claim 1 above), i.e., there is no updating of broadcast media and/or personal media. Even though Novak discloses an EPG 153, Novak does not disclose "combining representations of updated broadcast media and/or said personal media in said at least one constructed display based on said acquired information," as recited by the Appellant in claims 6, 16, and 26. Accordingly, the Appellant submits that claims 6, 16, and 26 are allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 6, 16, and 26.

**G. Rejection of Dependent Claims 7, 17, and 27**

Claims 7, 17, and 27 depend on independent claims 1, 11, and 21, respectively. Therefore, the Appellant submits that claims 7, 17, and 27 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that Novak-Ellis does not disclose or suggest at least the limitation of "generating at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media," as recited by the Appellant in claims 7, 17, and 27.

With regard to claim 7, the Final Office Action states the following at pages 5-6:

With respect to Claim 7, the claimed "comprising generating at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media" is met by Novak that teaches the production/generation of an updated EPG by a local studio, 106 and/or a cable service provider 108 (Figs. 1 & 7; paragraphs [0037], [0041], [0068]).

The Appellant respectfully disagrees and points out that Novak does not disclose any updating of broadcast media and/or personal media based on information acquired from a media provider (as explained with regard to claim 1 above), i.e., there is no updating of broadcast media and/or personal media. Even though Novak discloses an EPG 153, Novak does not disclose any generating of an updated constructed display comprising representations of updated broadcast media and/or personal media, as recited by the Appellant in claims 7, 17, and 27. In fact, as explained above, Novak is silent as to using any updated broadcast media and/or personal media. Accordingly,

the Appellant submits that claims 7, 17, and 27 are allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 7, 17, and 27.

#### **H. Rejection of Dependent Claims 8, 18, and 28**

Claims 8, 18, and 28 depend on independent claims 1, 11, and 21, respectively. Therefore, the Appellant submits that claims 8, 18, and 28 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1. The Appellant also submits that Novak-Ellis does not disclose or suggest at least the limitation of "rescheduling presentation of one or both of said broadcast media and/or said personal media via said updated at least one constructed display to prevent scheduling conflicts," as recited by the Appellant in claims 8, 18, and 28.

With regard to claim 8, the Final Office Action states the following at page 6:

With respect to Claim 8, the claimed "comprising rescheduling presentation of one or both of said broadcast media and/or said personal media via said updated at least one constructed display to prevent scheduling conflicts" is met by Novak that teaches the re-sequencing of media objects, to be presented on an electronic program guide, if an individual at an upload source 122 schedules one or more media objects for the same time slot (paragraph [0065]).

The Appellant would like to point out that even though Novak discloses, at the above citations, re-sequencing of media objects, Novak clearly does not disclose or

suggest any updating of a constructed display or rescheduling via the updated constructed display, as recited by the Appellant in claims 8, 18, and 28. Accordingly, the Appellant submits that claims 8, 18, and 28 are allowable over the references cited in the Final Office Action at least for the above reasons.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8, 18, and 28.

**I. Rejection of Dependent Claims 9, 19, 29, and 37**

Claims 9, 19, 29, and 37 depend on independent claims 1, 11, 21, and 32, respectively. Therefore, the Appellant submits that claims 9, 19, 29, and 37 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 9, 19, 29, and 37.

**J. Rejection of Dependent Claims 10, 20, 30, and 38**

Claims 10, 20, 30, and 38 depend on independent claims 1, 11, 21, and 32, respectively. Therefore, the Appellant submits that claims 10, 20, 30, and 38 are allowable over the references cited in the Final Office Action at least for the reasons stated above with regard to claim 1.

The Appellant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 10, 20, 30, and 38.

### CONCLUSION

For at least the foregoing reasons, the Appellant submits that claims 1-38 are in condition for allowance. Reversal of the Examiner's rejection and issuance of a patent on the application are therefore requested.

The Commissioner is hereby authorized to charge \$540 (to cover the Brief on Appeal Fee) and any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Date: 22-JAN-2009

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(OIB)

**CLAIMS APPENDIX**  
**(37 C.F.R. § 41.37(c)(1)(viii))**

1. A method for processing media for selection and playback in a communication network, the method comprising:

determining when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location;

acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider; and

updating, at a second geographic location, said at least one constructed display based on said acquired information.

2. The method according to claim 1, comprising transferring to said first geographic location said updated at least one constructed display for presentation at said first geographic location.

3. The method according to claim 2, comprising accessing subscription information related to said media broadcast scheduled in said at least one constructed display.

4. The method according to claim 3, comprising storing media broadcast content corresponding to said accessed subscription information.



5. The method according to claim 4, comprising communicating said stored media broadcast content to a location where said updated at least one constructed display is presented.

6. The method according to claim 1, comprising combining representations of updated broadcast media and/or said personal media in said at least one constructed display based on said acquired information.

7. The method according to claim 1, comprising generating at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media.

8. The method according to claim 1, comprising rescheduling presentation of one or both of said broadcast media and/or said personal media via said updated at least one constructed display to prevent scheduling conflicts.

9. The method according to claim 1, wherein said at least one constructed display is one or more of a channel guide, device guide and/or a media guide.

10. The method according to claim 1, comprising formatting said at least one constructed display in a graphical user interface.

11. A machine-readable storage having stored thereon, a computer program having at least one code section for processing media for selection and playback in a communication network, the at least one code section being executable by a machine for causing the machine to perform steps comprising:

determining when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location;

acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider; and

updating, at a second geographic location, said at least one constructed display based on said acquired information.

12. The machine-readable storage according to claim 11, comprising code for transferring to said first geographic location said updated at least one constructed display for presentation at said first geographic location.

13. The machine-readable storage according to claim 12, comprising code for accessing subscription information related to said media broadcast scheduled in said at least one constructed display.

14. The machine-readable storage according to claim 13, comprising code for storing media broadcast content corresponding to said accessed subscription information.

15. The machine-readable storage according to claim 14, comprising code for communicating said stored media broadcast content to a location where said updated at least one constructed display is presented.

16. The machine-readable storage according to claim 11, comprising code for combining representations of updated broadcast media and/or said personal media in said at least one constructed display based on said acquired information.

17. The machine-readable storage according to claim 11, comprising code for generating at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media.

18. The machine-readable storage according to claim 11, comprising code for rescheduling presentation of one or both of said broadcast media and/or said personal media via said updated at least one constructed display to prevent scheduling conflicts.

19. The machine-readable storage according to claim 11, wherein said at least one constructed display is one or more of a channel guide, device guide and/or media guide.

20. The machine-readable storage according to claim 11, comprising code for formatting said at least one constructed display in a graphical user interface.

21. A system for processing media for selection and playback in a communication network, the system comprising:

at least one processor that determines when one or both of personal media and/or broadcast media is scheduled in at least one constructed display for presentation at a first geographic location, wherein said scheduling is performed at said first geographic location;

said at least one processor acquires information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider; and

said at least one processor updates, at a second geographic location, said at least one constructed display based on said acquired information.

22. The system according to claim 21, wherein said at least one processor transfers to said first geographic location said updated at least one constructed display for presentation at said first geographic location.

23. The system according to claim 22, wherein said at least one processor accesses subscription information related to said media broadcast scheduled in said at least one constructed display.

24. The system according to claim 23, wherein said at least one processor causes said media broadcast content corresponding to said accessed subscription information to be stored.

25. The system according to claim 24, wherein said at least one processor communicates said stored media broadcast content to a location where said updated at least one constructed display is presented.

26. The system according to claim 21, wherein said at least one processor combines representations of updated broadcast media and/or said personal media in said at least one constructed display based on said acquired information.

27. The system according to claim 21, wherein said at least one processor generates at least one updated constructed display comprising at least representations of said updated broadcast media and/or said personal media.

28. The system according to claim 21, wherein said at least one processor reschedules presentation of one or both of said broadcast media and/or said personal media via said updated at least one constructed display to prevent scheduling conflicts.

29. The system according to claim 21, wherein said at least one constructed display is one or more of a channel guide, device guide and/or media guide.

30. The system according to claim 21, comprising formatting said at least one constructed display in a graphical user interface.

31. The system according to claim 21, wherein said at least one processor is one or both of a headend processor and/or a media guide pre-processor.

32. A method for processing media for selection and playback in a communication network, the method comprising:

determining, from outside a home, when one or both of personal media and/or broadcast media is scheduled in at least one constructed display that is displayed within said home, wherein said scheduling is performed at said home;

acquiring information related to said scheduled one or both of said personal media and/or said broadcast media from at least one media provider; and

updating from outside said home, said at least one constructed display based on said acquired information.

33. The method according to claim 32, comprising transferring said updated at least one constructed display for presentation within said home.

34. The method according to claim 33, comprising accessing from outside said home, subscription information related to said media broadcast scheduled in said at least one constructed display that is displayed within said home.

35. The method according to claim 34, comprising storing outside said home, broadcast media content corresponding to said accessed subscription information.

36. The method according to claim 35, comprising communicating said stored broadcast media content to said home where a representation of said broadcast media is presented in said at least one constructed display.

37. The method according to claim 32, wherein said at least one constructed display is one or more of a channel guide, device guide and/or media guide.

38. The method according to claim 32, comprising formatting said at least one constructed display in a graphical user interface.

**EVIDENCE APPENDIX**  
**(37 C.F.R. § 41.37(c)(1)(ix))**

- (1) United States Patent Application Publication No. 2002/0104099 ("Novak"), entered into record by the Examiner in the January 17, 2008 Office Action.
- (2) United States Patent No. 6,774,926 ("Ellis"), entered into record by the Examiner in the January 17, 2008 Office Action.



**RELATED PROCEEDINGS APPENDIX**  
**(37 C.F.R. § 41.37(c)(1)(x))**

The Appellant is unaware of any related appeals or interferences.